

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANDREAS SIEGFRIED GORATH,

Petitioner,

v.

CYNTHIA ANNE GORATH,

Respondent..

Case No. C06-5276 RBL

ORDER ON EVIDENTIARY HEARING


This Hague Convention Return case is before the court on its own Motion, following its request and receipt of the transcript of the German Court proceedings in the action commenced there by Mrs. Gorath. The Court has reviewed that transcript.

The German Court declined to grant the request of either Mr. or Mrs. Gorath for “provisional” rulings on the their respective claims for sole custody of the children at issue. The Court specifically did not make factual findings about the merits of the parties’ claims, including particularly Mrs. Gorath’s claim that, more than a year prior to removal, Mr. Gorath had threatened to “shoot her dead” if she left him. The German Court did not address the potential applicability of Article 13 of the Hague Convention, and it specifically acknowledged and referenced the ongoing repatriation proceedings in this Court.

1 It remains clear to this court that the best and most convenient evidence on the subject mater of this  
2 dispute is in Germany. If the German Court does not resolve the factual issues present in both the custody and  
3 Hague Return cases, then this court will hold an evidentiary hearing and resolve the Hague return case under  
4 the Hague Convention, including particularly Articles 3 and 13, on November 6, 2006. The Court will do so  
5 based on the law and on the evidence adduced at that hearing, including presumably the testimony of the  
6 parties.

7 If the German Court does resolve these factual issues, or schedules a hearing to do so in the not too  
8 distant future, this court will factor that determination into its resolution of the matter before it.

9 DATED this 31<sup>st</sup> day of October, 2006.

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12 RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE  
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